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Criminal accountability of United Nations officials and experts on mission

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Report of the Secretary-General

Summary

The present report has been prepared pursuant to paragraph 28 of General Assembly resolution 72/112. Section II provides a general overview of the information received from Member States since 2007 regarding the establishment of jurisdiction over their nationals whenever they serve as United Nations officials or experts on mission. Section III presents an analysis based on such information. A compilation and a summary table of national provisions are available on the website of the Sixth Committee.

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I. Introduction

1. In paragraph 28 of its resolution 72/112, the General Assembly requested the Secretary-General to prepare and keep updated a report containing a compilation and a summary table of national provisions, based on information received from Member States since 2007, regarding the establishment of jurisdiction over their nationals whenever they serve as United Nations officials or experts on mission, in relation to crimes as known in their existing national criminal laws, particularly those of a serious nature. Since the adoption of resolution 62/63, information has been requested from Member States on their provisions establishing jurisdiction over crimes, particularly those of a serious nature, as known in their existing national criminal laws, committed by their nationals while serving as United Nations officials or experts on mission.[1] Paragraph 10 of resolution 72/112 contains the most recent such provision.

2. Between 6 December 2007 and 1 June 2017, 121 submissions from 57 Member States were received. Additionally, by 1 June 2017, of those 57 Member States, 12 responses had been received to the questionnaire prepared in 2016 by the Secretariat.[2]

3. For the purpose of the present report, submissions received during the reporting period between 1 June 2017 and 1 June 2018, as well as submissions received after the reporting period until 13 July 2018, were included. As at 13 July 2018, 8 submissions[3] and 3 questionnaire responses[4] had been received from the 57 Member States that had previously submitted information, while 3 submissions[5] and 1 questionnaire response[6] had been received from 4 Member States which had not previously submitted information.

4. Accordingly, as at 13 July 2018, a total of 132 written submissions and 16 questionnaire responses had been received from 61 Member States, with 60 Member States providing information regarding their national provisions.[7]

5. Section II provides a general overview of national provisions based on the information received from Member States. Section III provides an analysis of the extent to which Member States have established jurisdiction over crimes committed extraterritorially by nationals while serving as United Nations officials or experts on mission.

6. A compilation of the full submissions and questionnaire responses that have been received from Member States since 2007 can be found on the website of the

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[1] See the previous reports of the Secretary-General under this item (A/72/205, A/72/126, A/71/167, A/70/208, A/69/210, A/68/173, A/67/213, A/66/174 and Add.1, A/65/185, A/64/183 and Add.1, and A/63/260 and Add.1).

[2] See A/71/167, annex I, and Corr.1.

[3] Bulgaria, Finland, Germany, Greece, Mexico, Qatar, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

[4] Belgium, Bosnia and Herzegovina and Greece; the response of Greece was submitted pursuant to resolution 71/134.

[5] Latvia, Turkey and Montenegro.

[6] Netherlands.

[7] Argentina, Australia, Austria, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Cyprus, Czechia, Egypt, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guatemala, Guyana, Iraq, Ireland, Italy, Jordan, Kenya, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Mexico, Montenegro, Netherlands, New Zealand, Norway, Oman, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Serbia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turkmenistan, the United Kingdom, the United States of America and Yemen; Slovakia provided information in response to General Assembly resolution 64/110 but not in relation to the issue of jurisdiction.

Sixth Committee under the item "Criminal accountability of United Nations officials and experts on mission" (available from http://www.un.org/en/ga/sixth). In addition, a summary table of the information received from Member States since 2007 regarding their national provisions is available on that website. The table, presented in the previous report of the Secretary-General (A/72/126), has been updated online to include the information received between 1 June 2017 and 13 July 2018.

II. General overview of national provisions based on the information received

7. A general overview of national provisions, based on the information received from the 60 Member States at the material time, is provided below. It focuses on: (a) bases of jurisdiction; (b) jurisdiction *ratione personae*; (c) jurisdiction *ratione materiae*; (d) the conditions for the exercise of such jurisdiction; (e) the application of rules of immunity; and (f) the applicability of military law. This corresponds to the framework set out in the questionnaire and the summary table of national provisions. Information has been included from statements made in submissions, specific responses to the questionnaire and extracts of national provisions, where provided. Where relevant, limitations or exceptions to the responses of Member States are provided in footnotes.

8. In relation to the available bases of jurisdiction and the relevant national provision(s) through which criminal law is applicable to nationals while serving as United Nations officials or experts on mission, the responses received reflect the following:

(a) Jurisdiction on the basis of territoriality: 40 Member States;[8]

(b) Jurisdiction on the basis of nationality: 55 Member States;[9]

(c) Jurisdiction on the basis of passive personality: 27 Member States;[10]

(d) Jurisdiction on the basis of the effects doctrine: 10 Member States;[11]

(e) Jurisdiction on the basis of the protective principle: 30 Member States;[12]

[8] Argentina, Australia, Austria, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Canada, Chile, China, Colombia, Czechia, El Salvador, Finland, Germany, Greece, Guatemala, Guyana, Ireland, Italy, Kenya, Lebanon, Lithuania, Netherlands, Norway, Panama, Paraguay, Peru, Portugal, Qatar, Republic of Korea, Slovenia, Spain, Sweden, Switzerland, Turkey, Turkmenistan, the United States and Yemen.

[9] Australia, Austria, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Cyprus, Czechia, Egypt, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guatemala, Guyana, Iraq, Ireland, Italy, Jordan, Kuwait, Latvia, Liechtenstein, Lithuania, Mexico, Montenegro, Netherlands, New Zealand, Norway, Oman, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Serbia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turkmenistan, the United Kingdom and the United States; Kenya is not included as its jurisdiction over nationals is unclear (see its submissions pursuant to General Assembly resolutions 62/63 and 64/110).

[10] Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Czechia, El Salvador, Estonia, Finland, Germany, Greece, Guatemala, Ireland, Italy, Mexico, Montenegro, Netherlands, Norway, Panama, Peru, Poland, Portugal, Republic of Korea, Slovenia, Spain and Turkmenistan.

[11] Argentina, Bolivia (Plurinational State of), Canada, Colombia, Germany, Mexico, Norway, Panama, Peru and Poland.

[12] Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Canada, Colombia, Cyprus, Czechia, Finland, Germany, Greece, Guatemala, Italy, Lithuania, Montenegro, Netherlands, New Zealand, Norway, Panama, Peru, Poland, Portugal, Qatar, Republic of Korea, Slovenia, Spain, Sweden, Switzerland and Turkmenistan.

(f) Jurisdiction on the basis of universality: 33 Member States;[13]

(g) Other: 12 Member States.[14]

In addition, 17 Member States stated that no specific legislation applies to United Nations officials and experts on mission.[15]

9. Concerning the extent to which national provisions establish jurisdiction *ratione personae* over crimes committed extraterritorially by nationals while serving as United Nations officials and experts on mission, the responses received reflect the following:

(a) General application to all persons: no Member State;

(b) Jurisdiction over nationals: 55 Member States;[16]

(c) Jurisdiction over stateless persons: 12 Member States;[17]

(d) Jurisdiction over foreign nationals: 40 Member States;[18]

(e) Specific legislation for particular categories of persons:

(i) Military United Nations officials and experts on mission: 2 Member States;[19]

(ii) Police United Nations officials and experts on mission: 2 Member States;[20]

(iii) Civilian United Nations officials and experts on mission: 2 Member States;[21]

(iv) Public officials acting in foreign jurisdictions: 25 Member States;[22]

[13] Austria, Belarus, Belgium, Bosnia and Herzegovina, Canada, Croatia, Cyprus, Czechia, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guatemala, Ireland, Italy, Kenya, Lithuania, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Qatar, Slovenia, Spain, Sweden, Switzerland, Turkmenistan and the United Kingdom.

[14] Argentina, Canada, Czechia, Ireland, Netherlands, Norway, Panama, Paraguay, Portugal, South Africa, Switzerland and Yemen.

[15] Belgium, Bosnia and Herzegovina, Chile, Czechia, Germany, Greece, Guyana, Italy, Lithuania, Mexico, Norway, Peru, Poland, Republic of Korea, Serbia, Spain and the United Kingdom.

[16] Australia, Austria, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Cyprus, Czechia, Egypt, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guatemala, Guyana, Iraq, Ireland, Italy, Jordan, Kuwait, Latvia, Liechtenstein, Lithuania, Mexico, Netherlands, New Zealand, Norway, Oman, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Serbia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turkmenistan, the United Kingdom and the United States.

[17] Belarus, Belgium, Bosnia and Herzegovina, Canada, Czechia, Finland, Georgia, Germany, Greece, Norway, Poland and Turkmenistan.

[18] Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Croatia, Cyprus, Czechia, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guyana, Ireland, Italy, Jordan, Lithuania, Mexico, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Slovenia, Spain, Sweden, Switzerland, Turkey, Turkmenistan and the United Kingdom.

[19] Australia and Canada.

[20] Australia and Canada.

[21] Australia and Canada.

[22] Argentina, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Canada, China, Colombia, El Salvador, Finland, Germany, Greece, Guatemala, Iraq, Italy, Jordan, Netherlands, Norway, Panama, Paraguay, Peru, Poland, Spain, Turkey and the United Kingdom.

(v) Other: 19 Member States.[23]

10. As regards the extent to which national provisions establish jurisdiction *ratione materiae* over crimes committed extraterritorially by nationals while serving as United Nations officials or experts on mission, the responses received reflect the following:

(a) General application of criminal law: 35 Member States;[24]

(b) Application limited to international treaty obligations: 36 Member States;[25]

(c) Application limited to crimes of a "serious nature": 7 Member States;[26]

(d) Application limited to "international crimes", including genocide, crimes against humanity and war crimes: 26 Member States;[27]

(e) Application limited to crimes accompanied with minimum imprisonment terms: 10 Member States;[28]

(f) Application limited to crimes affecting "essential interest(s) of the State": 28 Member States;[29]

(g) Application limited to crimes affecting public security: 15 Member States;[30]

(h) Application limited to specific list of crimes: 33 Member States;[31]

(i) Other limitations to the application *ratione materiae* of domestic law: 8 Member States.[32]

[23] Belgium, Bosnia and Herzegovina, Chile, Colombia, Croatia, El Salvador, Estonia, Finland, Greece, Ireland, Italy, Jordan, Latvia, New Zealand, Republic of Korea, South Africa, Sweden, Switzerland and the United Kingdom.

[24] Argentina, Australia, Austria, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Czechia, El Salvador, Estonia, Finland, Georgia, Germany, Guatemala, Italy, Kuwait, Latvia, Liechtenstein, Mexico, Montenegro, Paraguay, Peru, Poland, Portugal, Republic of Korea, Serbia, Slovenia, Spain, Sweden, Switzerland, Tunisia and Turkmenistan.

[25] Austria, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Cyprus, Czechia, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guatemala, Italy, Jordan, Lithuania, Mexico, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Slovenia, Spain, Switzerland, Turkmenistan and the United Kingdom.

[26] Ireland, Netherlands, New Zealand, Spain, Sweden, Switzerland and the United Kingdom.

[27] Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Colombia, Czechia, Estonia, Finland, Georgia, Germany, Greece, Guatemala, Italy, Kenya, Lithuania, Netherlands, New Zealand, Norway, Panama, Peru, Spain, Sweden, Switzerland and the United Kingdom.

[28] Bosnia and Herzegovina, China, Colombia, Cyprus, Finland, Netherlands, Norway, Poland, Sweden and Turkey.

[29] Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Colombia, Cyprus, Czechia, Georgia, Germany, Guatemala, Italy, Jordan, Lithuania, Netherlands, New Zealand, Norway, Panama, Peru, Poland, Portugal, Qatar, Republic of Korea, Slovenia, Spain, Sweden, Switzerland and Turkmenistan.

[30] Belgium, Bolivia (Plurinational State of), Czechia, Germany, Guatemala, Netherlands, New Zealand, Peru, Poland, Portugal, Qatar, Republic of Korea, Slovenia, Sweden and Switzerland.

[31] Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Cyprus, Czechia, Estonia, Finland, Germany, Greece, Guatemala, Guyana, Ireland, Italy, Lithuania, Netherlands, New Zealand, Norway, Panama, Poland, Republic of Korea, Slovenia, South Africa, Spain, Switzerland, Turkey, the United Kingdom and the United States.

[32] Egypt, Greece, Iraq, Ireland, Jordan, Norway, Oman and Tunisia.

11. In relation to the prerequisites which are placed before the application of extraterritorial jurisdiction for United Nations officials or experts on mission, the responses received reflect the following:

(a) Agreement (status-of-forces agreement (SOFA)/status-of-mission agreement (SOMA)) with host State on extraterritorial jurisdiction: no Member State;

(b) Agreement (SOFA/SOMA) with host State with respect to United Nations officials or experts on mission: no Member State;

(c) Any other agreement: 7 Member States;[33]

(d) National law: 46 Member States.[34]

12. In relation to other conditions which are placed before the application of extraterritorial jurisdiction for United Nations officials or experts on mission, the responses received reflect the following:

(a) Offence must be extraditable: 3 Member States;[35]

(b) Double criminality, with/without specific limitations to its application: 37 Member States;[36]

(c) Presence of the offender in territory of forum State, with/without specific limitations to its application: 26 Member States;[37]

(d) Application of *ne bis in idem*: 30 Member States;[38]

(e) Permission to prosecute required by Public Prosecutor/Attorney-General/other specific government official(s): 9 Member States.[39]

13. Concerning the legal basis for the application of rules of immunity to United Nations officials or experts on mission, the responses received reflect the following:

(a) Convention on Privileges and Immunities of the United Nations, 1946 (1946 Convention), as applicable: 24 Member States (but see para. 49 below);[40]

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[33] Australia, Belarus, Croatia, Czechia, Iraq, Jordan and Peru.

[34] Australia, Austria, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Canada, Colombia, Croatia, Cyprus, Czechia, Egypt, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guatemala, Guyana, Iraq, Ireland, Italy, Jordan, Kuwait, Liechtenstein, Lithuania, Mexico, Montenegro, Netherlands, Norway, Oman, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Slovenia, Spain, Sweden, Switzerland, Tunisia, Turkey and Turkmenistan.

[35] Guatemala, Peru and Switzerland.

[36] Austria, Belarus, Belgium, Bosnia and Herzegovina, Canada, Croatia, Cyprus, Czechia, Egypt, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guyana, Iraq, Ireland, Kuwait, Liechtenstein, Lithuania, Mexico, Montenegro, Netherlands, Norway, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Slovenia, Spain, Sweden, Switzerland, Tunisia and Turkmenistan.

[37] Austria, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Canada, Colombia, Czechia, Egypt, Guatemala, Iraq, Italy, Kuwait, Mexico, Montenegro, Norway, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Slovenia, Spain, Switzerland and Turkey.

[38] Belarus, Belgium, Bolivia (Plurinational State of), Canada, Colombia, Czechia, Egypt, El Salvador, Finland, Greece, Guatemala, Jordan, Kuwait, Lithuania, Mexico, Netherlands, Norway, Oman, Panama, Peru, Poland, Qatar, Republic of Korea, Slovenia, Spain, Sweden, Switzerland, Tunisia, Turkey and Turkmenistan.

[39] Australia, Belgium, Canada, Colombia, Finland, Guatemala, Iraq, Slovenia and Sweden.

[40] Argentina, Australia, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, China, Czechia, Egypt, El Salvador, Finland, Greece, Guyana, Lebanon, Netherlands, Norway. Panama, Peru, Poland, Portugal, Republic of Korea, Switzerland and the United Kingdom.

(b) Specific agreement with the United Nations (SOFA/SOMA/other): 10 Member States;[41]

(c) Specific agreement with the host State (SOFA/SOMA/other): 8 Member States;[42]

(d) Other general privileges and immunities applicable, including those accorded by national law: 10 Member States.[43]

14. As regards the extent to which military and/or civilian law is applicable to crimes committed by United Nations officials or experts on mission, the responses received reflect the following:

(a) Exclusive application of military law to military personnel deployed as United Nations officials or experts on mission: 1 Member State;[44]

(b) Exclusive use of military courts for military personnel deployed as United Nations officials or experts on mission: 1 Member State;[45]

(c) Potential application of civilian law/courts to military personnel: 21 Member States.[46]

III. Analysis of national provisions based on the information received

15. To facilitate understanding of the jurisdictional bases and gaps that exist in national provisions, an analysis based on the information received from the 59 Member States is set out below.

A. Prescriptive jurisdiction

1. Territoriality

16. There are 40 Member States that have submitted information on the territorial scope of their criminal laws (see para. 8 (a) above),[8] of which 15 States have criminal laws that extend in scope to vessels such as ships and aircraft.[47]

17. There are 10 Member States that have criminal jurisdiction extending to conduct outside their territory which has or is intended to have effects within their territory (see para. 8 (d) above),[11] of which 5 States have general provisions stating that their

[41] Australia, Belarus, Belgium, Bolivia (Plurinational State of), Finland, Iraq, Lebanon, Netherlands, Norway and Switzerland.

[42] Australia, Belgium, Bosnia and Herzegovina, Czechia, El Salvador, Finland, Mexico and Netherlands.

[43] Belgium, Greece, Iraq, Jordan, Lithuania, Panama, Paraguay, Peru, Portugal and Turkmenistan.

[44] Republic of Korea.

[45] Republic of Korea.

[46] Australia, Belgium, Bosnia and Herzegovina, Canada, China, Czechia, El Salvador, Estonia, Finland, Germany, Greece, Ireland, Jordan, Latvia, Netherlands, New Zealand, Norway, Poland, Sweden, Switzerland and the United Kingdom.

[47] Bolivia (Plurinational State of) (subject to *ne bis in idem*), Bosnia and Herzegovina, Canada, Finland, Germany, Greece, Guatemala (subject to *ne bis in idem*), Ireland (in certain circumstances), Lithuania, Netherlands, Paraguay, Peru (covers acts on Peruvian public vessels and aircraft, wherever committed, and on Peruvian private vessels or aircraft, when committed on the high seas or in airspace over which no State exercises sovereignty), Republic of Korea, Spain and Sweden. Additionally, Kenya has jurisdiction over the crime of piracy on Kenyan-registered vessels.

criminal laws would apply in such circumstances[48] while the other 5 States have more specific provisions for certain crimes leading to effects within their territory.[49]

18. There is 1 Member State that noted its willingness to prosecute any crime committed within its territory by a United Nations official or expert on mission provided that domestic law exists, but noted that if no domestic law exists it might extradite the alleged offender to the State of nationality on an "extradite or prosecute" basis.[50]

19. No examples of the exercise of territorial jurisdiction over crimes committed by United Nations officials and experts on mission have been provided by Member States that submitted information, apart from one State which offered examples of its exercise of jurisdiction as a host State over alleged offences that had reportedly taken place in its territory.[51]

2. Nationality

20. The legislation of 55 Member States provides nationality as the basis of extraterritorial jurisdiction (see para. 8 (b) above).[9] Differences can be observed in the extent to which these States have established prescriptive jurisdiction over crimes committed extraterritorially by their nationals. While the exercise of jurisdiction based on nationality is uncontroversial for many States, other States extend extraterritorial jurisdiction over their nationals in more limited circumstances. The present report will first address general criminal laws where jurisdiction covers all nationals, before turning to more specific provisions establishing jurisdiction over particular categories of nationals (namely, public officials or civilian, police or military personnel).

General jurisdiction over nationals

21. There are 33 Member States that rely on a general application of criminal law to their nationals.[52] Jurisdiction based on nationality is asserted to the fullest extent as all crimes punishable under domestic law are covered. In addition, 6 of those 33 States extend jurisdiction to foreigners who are residents,[53] while 4 of those 33 States extend jurisdiction to stateless persons who are residents.[54] There are conditions for the exercise of jurisdiction by most of those 33 States. For example, 22 States have a general double criminality requirement,[55] but 7 States do not require double criminality to be satisfied for certain serious crimes, including crimes relating to sexual exploitation and abuse,[56] while 8 States have jurisdiction over crimes committed in territory that is not under the criminal jurisdiction of any State;[57] 9 States (including 8 of those States that apply double criminality as a condition) take

[48] Argentina, Bolivia, Mexico, Norway and Panama.
[49] Canada, Colombia, Germany, Peru and Poland.
[50] Kenya.
[51] Switzerland.
[52] Austria, Belarus, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Croatia, Czechia, El Salvador, Estonia, Finland, Georgia, Germany, Guatemala, Kuwait, Latvia, Liechtenstein, Lithuania, Mexico, Montenegro, Norway, Paraguay, Peru, Poland, Portugal, Republic of Korea, Serbia, Slovenia, Spain, Sweden, Switzerland and Turkmenistan.
[53] Belgium, Croatia, Latvia, Lithuania, Norway and Sweden.
[54] Belarus, Czechia, Georgia and Turkmenistan.
[55] Austria, Belarus, Belgium, Croatia, Estonia, Finland, Georgia, Germany, Kuwait, Liechtenstein, Lithuania, Mexico, Norway, Paraguay, Peru, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland and Turkmenistan.
[56] Austria, Croatia, Finland, Germany, Liechtenstein, Lithuania and Norway.
[57] El Salvador, Estonia, Finland (for offences punishable by imprisonment for more than six months), Germany, Norway (for offences punishable by imprisonment), Paraguay, Portugal and Switzerland.

into account *ne bis in idem*;[58] 7 States require the presence of the alleged offender in the territory of the forum State;[59] 2 States require the offence to be extraditable;[60] and 2 States require the permission of a government official for an offence to be prosecuted.[61]

22. Other Member States assert extraterritorial jurisdiction over their nationals but limit jurisdiction *ratione materiae* to a narrower category of crimes. There are 5 States that restrict jurisdiction over their nationals to crimes accompanied with minimum imprisonment terms, ranging from one to four years.[62] The conditions for the exercise of jurisdiction differ among those 5 States: 1 State requires double criminality to be satisfied;[63] 2 States require the presence of the alleged offender in their territory;[64] 2 States observe *ne bis in idem*;[65] and 1 State allows prosecution to be instituted only following the authorization of the Government,[66] while 1 State added that, in extradition cases, its cooperation mechanism was applicable only in respect of the most serious crimes, which were recognized by its institutions as those crimes punishable by a higher imprisonment sentence.[67] Separately, the requirement of a minimum imprisonment term is relevant for 1 State that applies its general criminal law to its nationals (see para. 21 above), since extraterritorial jurisdiction only extends to offences committed in territory not belonging to any State if they are punishable by imprisonment for more than six months.[68]

23. Under another approach, 7 Member States have extraterritorial jurisdiction over their nationals for committing felonies or misdemeanours punishable under national law,[69] 1 of which also has extraterritorial jurisdiction over felonies or misdemeanours committed by foreigners who are residents, if their extradition has not been requested or accepted.[70] As to the conditions for the exercise of jurisdiction among those 7 States: 5 States require double criminality to be satisfied;[71] 3 States require the presence of the alleged offender in their territory;[72] 4 States take into account *ne bis in idem*,[73] and for 1 State, prosecution for a misdemeanour is subject to the filing of a criminal complaint by the victim or a request by the Government of the State in which the crime was committed and petty offences can be punished in cases specifically provided for by national law.[74]

24. There are 8 Member States that emphasized that the exercise of jurisdiction over specific crimes committed abroad by their nationals is permitted only under an

[58] Belarus, Bolivia (Plurinational State of), Kuwait, Lithuania, Mexico, Slovenia, Spain, Sweden and Turkmenistan.
[59] Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Mexico, Montenegro, Peru and Portugal.
[60] Guatemala (refers to refusal of extradition of the accused) and Peru.
[61] Belgium (prosecution of crimes committed against foreigners is at the request of the Federal Prosecutor) and Sweden (authorization is generally required from the Government or a person designated by the Government, except in limited circumstances).
[62] China (three years), Colombia (two years), Cyprus (two years), Sweden (four years) and Turkey (one year).
[63] Cyprus.
[64] Colombia and Turkey.
[65] Colombia and Turkey.
[66] Sweden.
[67] Colombia (four years).
[68] Finland.
[69] Egypt, Greece, Iraq, Jordan, Oman, Qatar and Tunisia.
[70] Jordan.
[71] Egypt, Greece, Iraq, Qatar and Tunisia.
[72] Egypt, Iraq and Qatar.
[73] Egypt, Oman, Qatar and Tunisia.
[74] Greece.

express exception to the territorial ambit of their laws.[75] Examples of such crimes, which are governed by international treaties or have been deemed sufficiently serious to attract extraterritorial jurisdiction, include piracy;[76] terrorism;[77] torture (committed by or on behalf of public officials);[78] trafficking in persons;[79] money-laundering;[80] corruption, bribery or related offences;[81] sexual offences (generally);[82] sexual offences involving children;[83] and murder, manslaughter or homicide.[84]

25. The information submitted by Member States does not reveal any clear picture of national provisions establishing jurisdiction over crimes of a "serious nature" committed by nationals serving as United Nations officials and experts on mission. On the one hand, 5 States highlighted specific serious crimes recognized in their domestic laws to which extraterritorial jurisdiction applies;[85] on the other hand, 2 States observed that their legislation did not have a category for crimes of a "serious nature".[86] Not all Member States elaborated on the concept of crimes of a "serious nature" in their domestic laws. It is worth recalling that the focus of this report is the establishment of jurisdiction by Member States over crimes, particularly those of a serious nature, "as known in their existing national criminal laws", committed by their nationals while serving as United Nations officials and experts on mission. In this regard, while it has been suggested that serious crimes against the person, including sexual crimes, should be included at the minimum,[87] a possible alternative approach would be to cover all serious crimes, as known and defined under the national law of the State asserting jurisdiction, that are punishable under that law by at least two or three years' imprisonment.[88]

Jurisdiction over public officials

26. There are 25 Member States that have specific provisions establishing jurisdiction over public officials acting in foreign jurisdictions (see para. 9 (e) (iv) above),[22] although there is no uniform approach towards United Nations officials or experts on mission.

27. Of those 25 States, 23 States have extraterritorial jurisdiction over crimes committed by public officials, typically in the performance of their duties[89] (although it is generally unclear whether United Nations officials and experts qualify as "public officials" under such provisions), of which 1 State explained that nationals serving as

[75] Canada, Guyana, Ireland, Netherlands, New Zealand, South Africa, the United Kingdom and the United States.
[76] New Zealand.
[77] Canada and New Zealand.
[78] Ireland and the United Kingdom.
[79] Canada, Ireland, New Zealand, the United Kingdom and the United States.
[80] New Zealand.
[81] Canada, New Zealand, the United Kingdom and the United States.
[82] Guyana (subject to double criminality), New Zealand and South Africa.
[83] Canada, Ireland (subject to double criminality), New Zealand, the United Kingdom and the United States.
[84] Ireland and the United Kingdom.
[85] Ireland, Netherlands, New Zealand, Spain and the United Kingdom.
[86] Colombia and Guatemala.
[87] See A/60/980, para. 61.
[88] See A/62/329, para. 39.
[89] Argentina, Belgium (limited to corruption offences), Bolivia (Plurinational State of), Canada (excluding non-federal employees), China, Colombia, El Salvador, Finland (refers to offences in public office), Germany, Greece, Guatemala, Iraq, Italy, Jordan, Netherlands (limited to a list of serious offences), Norway (prosecution may be permitted in certain circumstances if the crime has been adjudicated abroad, unless the prosecution in the adjudicating country was instituted on the application of its own authorities), Panama, Paraguay, Peru, Poland, Spain, Turkey and the United Kingdom.

United Nations officials or experts on mission in their personal capacity would not fall within the definition of public officials and offences applicable to public officials by virtue of their status would generally not extend to those who have been granted leave to serve as United Nations officials or experts on mission,[90] while 1 State regards nationals serving as United Nations officials or experts as international civil servants who are therefore excluded from provisions applicable to agents and employees of its authorities.[91]

28. In contrast, 2 of those 25 States have provisions that specifically apply to public officials deployed abroad to serve in peacekeeping or similar operations,[92] of which 1 State considers nationals serving as United Nations officials or experts on mission to be civil servants who remain subject to prosecution for all crimes punishable under its general criminal law, without any condition of double criminality,[93] while for the other State, civil servants and employees are subject to the same legislation applicable to police and military personnel participating in such operations (see paras. 34 and 38 below).[94]

Jurisdiction over civilian personnel

29. Apart from those Member States with provisions for civilian personnel acting in their capacity as public officials (see paras. 26–28 above) or civilian personnel attached to military personnel[95] (see paras. 35–39 below), 4 States have specific provisions that may be applicable to civilian United Nations officials and experts on mission.[96]

30. Of those 4 States, 1 State has specifically extended its criminal law to establish extraterritorial jurisdiction over its nationals who are immune from prosecution in a foreign State, subject to the written consent of a minister as a condition for the exercise of jurisdiction.[97] Presumably, this would include civilian personnel serving as United Nations officials or experts on mission who are covered by the 1946 Convention.

31. Of those same 4 States, 2 States have specific legislation over civilian personnel deployed abroad in international missions, peacekeeping operations, or similar activities.[98] Their legislation provides that civilian personnel who participate in such activities are subject to the extraterritorial application of criminal law and the principle of double criminality applies (except for certain sexual offences).

32. Of those same 4 States, 1 State has jurisdiction that is restricted to persons who are part of an overseas operations force authorized or required by the Government to participate in duties abroad, including both United Nations and non-United Nations operations[99] and it expressly acknowledged that jurisdiction does not extend to nationals serving as United Nations officials or experts on mission in their personal capacity without government authorization.

[90] Canada.
[91] Argentina (jurisdiction over agents and employees is not based on nationality).
[92] Austria and Bosnia and Herzegovina.
[93] Austria.
[94] Bosnia and Herzegovina.
[95] Australia, Belgium, Canada, South Africa and Sweden.
[96] Australia, Croatia, Finland and New Zealand.
[97] Australia.
[98] Croatia and Finland.
[99] New Zealand.

Jurisdiction over police personnel

33. There are 2 Member States that have specific provisions establishing jurisdiction over police United Nations officials and experts on mission (see para. 9 (e) (ii) above),[20] of which 1 State has extraterritorial criminal law over its nationals who are immune from prosecution in a foreign State, subject to the written consent of a minister as a condition for the exercise of jurisdiction (see para. 30 above), and stated that such law would apply to police personnel deployed to United Nations missions abroad who are covered by the 1946 Convention,[100] while according to the other State, police personnel deployed to serve in United Nations operations abroad in various capacities are governed by a code of conduct with extraterritorial effect, the breach of which renders them liable to be tried by the criminal justice system.[101]

34. There are 4 other Member States that have specific provisions applicable to police personnel deployed abroad in international missions, peacekeeping operations, or similar activities.[102] However, as the analysis is limited by the information received, the extent to which such provisions regulate the criminal conduct of police United Nations officials or experts on mission is not apparent.

Jurisdiction over military personnel

35. There are 26 Member States that have established some form of jurisdiction over the conduct of military personnel,[103] based on military law, civilian law, a combination of both or other specific legislation. Accordingly, jurisdiction would differ depending on the crimes targeted by the applicable provisions.

36. Of those 26 States, 12 States have military law that provides jurisdiction over their military personnel for military crimes committed abroad[104] and in 1 State the application of military law and the jurisdiction of military courts are exclusive in nature (see paras. 14 (a) and (b) above).[44,45]

37. Of those same 26 States, 21 States have general jurisdiction over their military personnel who are potentially subject to the application of civilian law/courts (see para. 14 (c) above),[46] in 9 States of which military law incorporates or coexists with general criminal law so that jurisdiction over military personal covers both military crimes and crimes of a civilian nature[105] and 1 State of which also has jurisdiction to prosecute its military personnel for conduct punishable as crimes under foreign law,[106] while in 5 States of which, by contrast, military personnel are subject to general criminal law to the same extent as other nationals.[107]

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[100] Australia.

[101] Canada.

[102] Bosnia and Herzegovina, Italy, Jordan (applicable to public security personnel of all ranks) and Sweden (applicable to employees of the police peace support operations or police officers with transnational assignments under international agreements).

[103] Australia, Belgium, Bosnia and Herzegovina, Canada, Chile, China, Colombia, Czechia, El Salvador, Estonia, Finland, Germany, Greece, Ireland, Italy, Jordan, Netherlands, New Zealand, Norway, Poland, Republic of Korea, South Africa, Sweden, Switzerland and the United Kingdom. However, South Africa did not provide information on the scope of jurisdiction *ratione materiae* under its defence act.

[104] Australia, Canada, Chile, Colombia (limited to crimes that are the direct result of military duties), Estonia, Finland, Greece, Ireland, New Zealand, Republic of Korea (excluding seconded enlisted soldiers), Switzerland and the United Kingdom.

[105] Australia, Canada, Estonia, Finland, Greece, Ireland, New Zealand, Switzerland and the United Kingdom.

[106] Canada.

[107] Belgium, Bosnia and Herzegovina, Czechia, Germany and Sweden.

38. Of those same 26 States, 5 States have jurisdiction based on specific provisions for military personnel deployed abroad in international missions, peacekeeping operations or similar activities,[108] which apparently exists in addition to, and thereby complements, the existing framework of military or civilian law.

39. Of those same 26 States, only 11 have specifically stated that their laws would cover the extraterritorial conduct of military personnel serving as United Nations officials or experts on mission.[109] Moreover, it is important to note that not all Member States distinguished between military members of national contingents, who are subject to the exclusive jurisdiction of their sending States, and military personnel serving as United Nations officials or experts on mission in their personal capacity.[110] As a result, the scope of the present analysis may be overinclusive or underinclusive.

3. Passive personality

40. There are 27 Member States that have national provisions based on passive personality (see para. 8 (c) above).[10] While some States assume jurisdiction over conduct affecting their nationals more broadly, others limit their exercise of jurisdiction within certain circumstances that are expressly provided for.

41. There are 16 Member States that have general provisions that establish jurisdiction over all crimes committed against their nationals,[111] of which 1 State has jurisdiction over crimes committed against stateless persons holding permanent residence status as well,[112] while double criminality is a condition for the exercise of jurisdiction for 9 States;[113] however, of those 16 States an exception is made by 3 States for crimes committed in territory that is not subject to any criminal jurisdiction[114] and 1 State added that its authorities had the discretion to prosecute a crime against its national even if it was not punishable under the law of the State where it was committed,[115] while the exercise of jurisdiction by 6 States is subject to the presence of the alleged offender within their territory,[116] 1 State added that the offence must be extraditable under domestic law,[117] 1 State may exercise jurisdiction only if the alleged offender is not extradited,[118] 3 States take into account *ne bis in idem*[119] and for 1 State permission is required to prosecute.[120]

42. Other Member States have jurisdiction over a narrower category of crimes against their nationals. In some ways, their provisions mirror those concerning crimes committed by nationals (see paras. 22 and 23 above). Four States limit their jurisdiction to crimes against their nationals that are punishable by minimum imprisonment terms, ranging relatively widely from six months to eight years,[121] one of which extends jurisdiction to crimes against foreigners who are permanent

[108] Bosnia and Herzegovina, Italy, Jordan (applicable to public security personnel of all ranks), Finland and Sweden.

[109] Australia, Canada, China, Germany, Greece, Ireland, Italy, Latvia, New Zealand, Republic of Korea and Switzerland.

[110] See A/62/329, paras. 54–65.

[111] Bosnia and Herzegovina, Bulgaria, Czechia, El Salvador, Estonia, Germany, Guatemala, Mexico, Montenegro, Panama, Peru, Poland, Portugal, Republic of Korea, Slovenia and Turkmenistan.

[112] Czechia.

[113] Czechia, Estonia, Germany, Mexico, Montenegro, Peru, Poland, Portugal and Slovenia.

[114] Czechia, Estonia and Portugal.

[115] Montenegro (upon the approval of the Supreme State Prosecutor).

[116] Bosnia and Herzegovina, Guatemala, Mexico, Montenegro, Peru and Portugal.

[117] Peru.

[118] Portugal.

[119] Guatemala, Mexico and Slovenia.

[120] Guatemala (a charge has to be brought by or on behalf of the Government Procurator's office).

[121] Belgium (five years), Finland (six months), Netherlands (eight years) and Norway (six years).

residents,[122] one of which extends jurisdiction to crimes against foreigners who are residents[123] and three of which require double criminality to be satisfied.[124] Apart from those 4 States, 1 other State asserts jurisdiction over crimes committed against its nationals that constitute felonies or misdemeanours, with the same conditions for the exercise of jurisdiction that apply to crimes committed by its nationals (see para. 23 above).[125]

43. There are 6 Member States that have jurisdiction based on specific provisions for particular crimes committed against their nationals, such as war crimes and crimes against humanity, terrorism, trafficking in persons and sexual offences involving children.[126]

44. There are 2 Member States that have provisions establishing jurisdiction over crimes committed against their nationals by their own nationals. The conditions for the exercise of jurisdiction are less stringent, compared to those applicable to crimes committed by foreign nationals: 1 State requires both the alleged offender and the victim to reside in its territory,[127] while the other State only requires the victim to reside in its territory.[128]

4. Protective principle

45. There are 30 Member States that have national provisions establishing jurisdiction over persons generally, including foreign nationals, on the basis of the protective principle (see para. 8 (e) above).[12] These provisions tend to focus on crimes affecting "essential interest(s) of the State" and/or public security, such as crimes against the State or against its interests, sovereignty, independence, integrity or security,[129] crimes against the constitutional order of the State,[130] crimes against the administration, authorities or institutions of the State,[131] crimes against the economy or economic interests of the State,[132] and crimes involving forgery or counterfeiting of official documents, seals or currency.[133] Generally, no conditions for the exercise of jurisdiction were mentioned in relation to such crimes.

5. Universality

46. No Member State has expressly asserted universal jurisdiction over crimes committed by United Nations officials and experts on mission. Although there are 33 Member States which have relied on universal jurisdiction (see para. 8 (f) above),[13] their national provisions concern other types of crimes.

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[122] Finland.
[123] Norway.
[124] Belgium, Finland and Netherlands.
[125] Greece (double criminality must be satisfied, unless the crime is committed in a constitutionally unsettled State; prosecution of a misdemeanour is subject to the filing of a complaint by the victim or a request by the Government of the State in which the crime was committed; petty offences can only be punished in cases specifically provided for by national law).
[126] Belgium, Canada, Chile, Ireland, Italy and Spain.
[127] Austria.
[128] Portugal.
[129] Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Colombia, Cyprus, Finland, Georgia, Guatemala, Italy, Montenegro, Norway, Panama, Peru, Poland, Portugal, Qatar, Slovenia, Spain, Sweden and Switzerland.
[130] Colombia, Cyprus, Guatemala, Peru, Slovenia and Spain.
[131] Bosnia and Herzegovina, Colombia, Netherlands, Norway, Panama, Peru, Poland and Sweden.
[132] Bolivia (Plurinational State of), Colombia, Panama, Peru and Poland.
[133] Belgium, Bosnia and Herzegovina, Colombia, Cyprus, Guatemala, Italy, Lithuania, Panama, Qatar, Slovenia and Spain.

47. In particular, 26 Member States have national provisions limited to "international crimes", including genocide, crimes against humanity and war crimes (see para. 10 (d) above).[27] Most of them referred to the Rome Statute of the International Criminal Court as the basis for jurisdiction, but some also mentioned conditions for the exercise of jurisdiction. Of those 26 States, 1 State stated that international crimes would be punished only if the alleged offender is found in its territory;[134] 1 State applies *ne bis in idem*[135]and 1 State stated that prosecutions could be commenced only with the consent of the Attorney-General.[136]

48. Universal jurisdiction may sometimes but not always overlap with extraterritorial jurisdiction based on a treaty. In this regard, 36 Member States have national provisions establishing jurisdiction in accordance with their international treaty obligations (see para. 10 (b) above).[25] Not all of them distinguished between the establishment of extraterritorial jurisdiction on a mandatory or permissive basis under international treaties. Of those 36 Member States, 14 States apply their domestic laws to crimes that they are obliged to prosecute,[137] 1 State applies its domestic law more broadly to crimes that it has either a right or an obligation to prosecute[138] and 6 States referred only to national provisions implementing specific international treaty obligations.[139] In terms of conditions for the exercise of jurisdiction among those 36 States, 10 States highlighted that double criminality was not required under their national provisions,[140] in contrast to 1 Member State which restricted its jurisdiction to crimes committed abroad that were either punishable in the State where it was committed or committed in a place that did not fall under any criminal jurisdiction,[141] while 4 States require the presence of the alleged offender in their territory[142] and 6 States subject prosecution to *ne bis in idem*.[143]

B. Immunity

49. All but one of the 60 Member States covered in the present report are parties to the 1946 Convention.[144] While not every State elaborated on this, 24 States expressly recognized the 1946 Convention as the applicable legal basis of rules of immunity for United Nations officials or experts on mission (see para. 13 (a) above).[40]

50. There are 10 Member States that referred to a SOFA/SOMA/other agreement with the United Nations as a basis for the application of rules of immunity (see para. 13 (b) above),[41] of which 3 States gave examples of agreements with the United Nations regulating their relationship as host Governments in relation to certain United Nations offices,[145] 1 State gave examples of its agreements with the United Nations

[134] Italy.
[135] Belarus.
[136] Canada.
[137] Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Germany, Mexico, Netherlands, Paraguay, Peru, Poland, Slovenia, Spain and Switzerland.
[138] Norway.
[139] Canada, Georgia, Jordan, Lithuania, New Zealand and the United Kingdom.
[140] Austria, Belarus, Belgium, Estonia, Finland, Greece, Lithuania, Panama, Poland and Spain.
[141] Switzerland.
[142] Italy, Mexico, Paraguay and Switzerland.
[143] Belarus, Lithuania, Mexico, Slovenia, Switzerland and Turkmenistan.
[144] Oman is not a party to the 1946 Convention. Status as at 13 July 2018, according to the website of the United Nations Treaty Collection (https://treaties.un.org).
[145] Bolivia (Plurinational State of) (Agreement between the Office of the High Commissioner for Human Rights and the Bolivian Government), Lebanon (Agreement concerning the Headquarters of the United Nations Economic and Social Commission for Western Asia) and Switzerland (Agreement on Privileges and Immunities of the United Nations concluded between the Swiss Federal Council and the Secretary-General of the United Nations).

Development Programme,[146] and 1 State stated that its military personnel are deployed pursuant to a memorandum of understanding with the United Nations concerning a United Nations peacekeeping mission in a separate Member State, under which such personnel are subject to its own exclusive jurisdiction.[147]

51. As for the 8 Member States which referred to a SOFA/SOMA/other agreement with the host State (see para. 13 (c) above),[42] specific examples were generally not provided regarding the application of rules of immunity on the basis of any such agreement. Only 1 State mentioned that, as a host State, it had an agreement with an international organization governing the status of that organization's military and civilian personnel, and that the provisions of the 1946 Convention were applicable mutatis mutandis unless otherwise provided by the agreement.[148]

52. Of the 10 Member States which referred to other privileges and immunities to United Nations officials or experts on mission (see para. 13 (d) above),[43] 8 Member States recognized that the issue of immunity would be decided in accordance with international agreements and/or customary international law (or general international law).[149] For 6 of those 10 States, it is possible that other privileges and immunities were accorded by their domestic law, but limited information was provided,[150] while 1 State explained that its domestic law recognizes a jurisdictional privilege for judges, who may serve as experts on mission for the United Nations, by establishing specific provisions in the case of offences committed while off or on duty, but that such a privilege consists of a special procedure and is not a jurisdictional privilege in the sense of the primacy of the jurisdiction of one State over the jurisdiction of another.[151]

C. Enforcement jurisdiction

53. No examples have been provided regarding the enforcement of national provisions against United Nations officials or experts on mission in the jurisdiction of any Member State.

54. On the contrary, based on the information provided at the material time, 10 Member States reported that they were not aware of any cases or allegations of serious crimes committed by their nationals while serving as United Nations officials or experts on mission.[152] Apart from those 10 States, 1 State stated that there was a complaint against its national deployed as an expert, which was dismissed, and that there was no instance of prosecution under its extraterritorial criminal law for United Nations officials or experts on mission,[153] while 1 State observed that no court rulings

[146] Norway (Agreement of 14 March 2001 between the Government of Norway and the United Nations Development Programme relating to the establishment of the UNDP Thematic Facility on Governance — The Oslo Center, and Supplementary Agreement of 23 December 2003 between Norway and the United Nations Development Programme).

[147] Belarus (memorandum of understanding between the Government of the Republic of Belarus and the United Nations on the provision of resources for the United Nations Interim Force in Lebanon).

[148] Bosnia and Herzegovina (Agreement on the status of the North Atlantic Treaty Organization and its personnel in Bosnia and Herzegovina, Appendix B to Annex 1-A of the General Framework Agreement for Peace in Bosnia and Herzegovina).

[149] Greece, Iraq, Jordan, Lithuania, Panama, Paraguay (refers to the Vienna Convention on Consular Relations), Peru and Turkmenistan.

[150] Belgium, Greece, Iraq, Lithuania, Panama and Portugal.

[151] Belgium.

[152] Czechia (as of 2016), El Salvador (as of 2014, 2016 and 2017), Finland (as of 2014, 2015, 2016, 2017 and 2018), Greece (as of 2015), Lithuania (as of 2015), New Zealand (no current allegations, investigations or prosecutions as of 2017), Qatar (as of 2009, 2010, 2011, 2015 and 2018), Serbia (as of 2008), Spain (as of 2016) and Turkmenistan (over the period 2006 to 2011).

[153] Australia (as of 2008 and 2016).

had been issued regarding the exercise of jurisdiction over its nationals serving as United Nations officials or experts on mission.[154]

55. Based on the information available on national provisions, it is clear that significant gaps continue to exist in Member States between prescriptive and enforcement jurisdiction.

[154] Kuwait (as of 2016).